

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 708 Session of
2009

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McILVAINE SMITH, GERBER AND KORTZ, MARCH 4, 2009

SENATOR CORMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, SEPTEMBER 29, 2010

AN ACT

1 Establishing a recycling program for certain covered devices;
2 imposing duties on manufacturers and retailers of certain
3 covered devices; providing for the powers and duties of the
4 Department of Environmental Protection and for enforcement;
5 establishing the Electronic Materials Recycling Account in
6 the General Fund; and prescribing penalties.

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17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 CHAPTER 1

20 PRELIMINARY PROVISIONS

21 Section 101. Short title.

22 This act shall be known and may be cited as the Covered
23 Device Recycling Act.

24 Section 102. Definitions.

25 The following words and phrases when used in this act shall
26 have the meanings given to them in this section unless the
27 context clearly indicates otherwise:

28 "Brand." Symbols, words or marks that identify a covered
29 device, rather than any of its components.

30 "Computer." A desktop or notebook computer. The term does

1 not include an automated typewriter, professional workstation,
2 server, mobile telephone, portable handheld calculator, portable
3 digital assistant, MP3 player or other similar device.

4 "Computer manufacturer." A person:

5 (1) who manufactures covered computer devices to be sold
6 under its own brand as identified by its own brand label;

7 (2) who sells covered computer devices manufactured by
8 others under its own brand as identified by its own brand
9 label; or

10 (3) who assumes the duties imposed on the computer
11 manufacturer under this act.

12 THE TERM DOES NOT INCLUDE A PERSON WHO MANUFACTURES ONLY
13 PERIPHERAL COMPUTER DEVICES.

14 "Consumer." An occupant of a single detached dwelling unit
15 or a single unit of a multiple dwelling unit who has used a
16 covered device primarily for personal or ~~home~~ SMALL business
17 use. FOR PURPOSES OF THIS DEFINITION A SMALL BUSINESS IS AN
18 ENTITY THAT IS INDEPENDENTLY OWNED OR OPERATED, EMPLOYS 50 OR
19 FEWER PEOPLE, HAS PURCHASED OR LEASED A COVERED COMPUTER DEVICE
20 FROM A COMPUTER MANUFACTURER OR RETAILER AND, BUT FOR THE
21 PROGRAM ESTABLISHED UNDER THIS ACT, WOULD NOT OTHERWISE HAVE
22 ACCESS TO ELECTRONIC RECYCLING PROGRAMS.

23 "Covered computer device." A desktop or notebook computer or
24 computer monitor or peripheral, marketed and intended for use by
25 a consumer. The term does not include a covered television
26 device.

27 "Covered device." A covered computer device and covered
28 television device marketed and intended for use by a consumer.
29 The term does not include:

30 (1) a device that is a part of a motor vehicle or any

1 component part of a motor vehicle assembled by or for a
2 vehicle manufacturer or franchised dealer, including
3 replacement parts for use in a motor vehicle;

4 (2) a device that is functionally or physically a part
5 of or connected to or integrated within equipment or a system
6 designed and intended for use in an industrial, governmental,
7 commercial, research and development or medical setting,
8 including, but not limited to, diagnostic, monitoring,
9 control or medical products as defined under the Federal
10 Food, Drug, and Cosmetic Act (52 Stat. 1040, 21 U.S.C. § 301
11 et seq.), or equipment used for security, sensing,
12 monitoring, antiterrorism, emergency services purposes or
13 equipment designed and intended primarily for use by
14 professional users;

15 (3) a device that is contained within a clothes washer,
16 clothes dryer, refrigerator, refrigerator and freezer,
17 microwave oven, conventional oven or range, dishwasher, room
18 air conditioner, dehumidifier, air purifier or exercise
19 equipment; or

20 (4) any of the following:

21 (i) Telephone of any type, including a mobile phone.

22 (ii) Personal digital assistant.

23 (iii) Global positioning system.

24 "Covered television device." An electronic device that
25 contains a tuner that locks on to a selected carrier frequency
26 and is capable of receiving and displaying television or video
27 programming via broadcast, cable or satellite, including,
28 without limitation, any direct view or projection television
29 with a viewable screen of four inches or larger whose display
30 technology is based on cathode ray tube, plasma, liquid crystal,

1 digital light processing, liquid crystal on silicon, silicon
2 crystal reflective display, light emitting diode or similar
3 technology marketed and intended for use by a consumer primarily
4 for personal purposes. The term does not include a covered
5 computer device OR A MOBILE TELEPHONE. ←

6 "Department." The Department of Environmental Protection of
7 the Commonwealth.

8 "Desktop computer." An electronic, magnetic, optical,
9 electrochemical or other high-speed data processing device
10 which:

11 (1) Performs logical, arithmetic and storage functions
12 for general purpose needs which are met through interaction
13 with a number of software programs contained in the device.

14 (2) Is not designed to exclusively perform a specific
15 type of limited or specialized application.

16 (3) Achieves human interface through a stand-alone
17 keyboard, stand-alone monitor or other display unit and a
18 stand-alone mouse or other pointing device and is designed
19 for a single user.

20 (4) Has a main unit that is intended to be persistently
21 located in a single location, often on a desk or on the
22 floor.

23 "Market share." An estimate of the total weight of a
24 ~~television~~ manufacturer's sales of covered ~~television~~ devices ←
25 during the previous program year calculated by multiplying the
26 weight of its covered ~~television~~ devices sold nationally times ←
27 the quotient of this Commonwealth's population divided by the
28 national population.

29 "New covered device." A covered device ~~or a covered~~ ←
30 ~~television device~~ that is manufactured after the effective date

1 of this section.

2 "Notebook computer." An electronic, magnetic, optical,
3 electrochemical or other high-speed data processing device
4 which:

5 (1) Performs logical, arithmetic or storage functions
6 for general purpose needs which are met through interaction
7 with a number of software programs contained in the device.

8 (2) Is not designed to exclusively perform a specific
9 type of limited or specialized application.

10 (3) Achieves human interface through a keyboard, video
11 display greater than four inches in size and mouse or other
12 pointing device, all of which are contained within the
13 construction of the unit which comprises the notebook
14 computer.

15 (4) Can be carried as one unit by an individual.

16 (5) May include a supplemental stand-alone interface
17 device.

18 (6) May use external, internal or batteries for a power
19 source.

20 The term does not include a portable handheld calculator,
21 portable digital assistant or similar specialized device.

22 "~~Obligated share.~~" The proportion of covered ~~computer~~ ←
23 ~~devices that reflects a manufacturer's returns share or covered~~ ←
24 ~~television devices that reflects a manufacturer's~~ market share
25 responsibility under this act.

26 "~~Orphan device.~~" ~~A covered computer device for which no~~ ←
27 ~~manufacturer may be identified.~~

28 "Peripheral." A keyboard, printer or any other device sold
29 exclusively for external use with a computer that provides input
30 into or output from the computer. The term does not include

1 adaptive or assistive technologies.

2 "Person." An individual, trust, firm, joint stock company,
3 business concern, corporation, government agency, partnership,
4 limited liability company or association.

5 "Program year." A full calendar year beginning on or after
6 January 1, 2011.

7 "Purchase." The taking by sale of title in exchange for
8 consideration.

9 "Recycling." A process by which covered devices that would
10 otherwise become solid waste or hazardous waste are collected,
11 transported, separated and processed, including disassembling,
12 dismantling or shredding, to be returned to use in the form of
13 raw materials or products in accordance with environmental
14 standards established by the Department of Environmental
15 Protection.

16 "Retail sales." The sale of covered devices through sales
17 outlets, via the Internet, mail order or other means, regardless
18 of whether the retailer has a physical presence within this
19 Commonwealth.

20 "Retailer." A person who offers for sale, other than for
21 resale by the purchaser, new covered devices in this
22 Commonwealth by any means, including, but not limited to, sales
23 outlets, catalogs or the Internet.

24 ~~"Return share." The proportion of covered computer devices~~ ←
25 ~~for which an individual manufacturer is responsible to collect,~~
26 ~~transport and recycle.~~

27 ~~"Return share in weight." The total weight of covered~~
28 ~~computer devices for which a manufacturer is responsible to~~
29 ~~collect, transport and recycle.~~

30 "Sale" or "sell." A transfer for consideration of title,

1 including, but not limited to, a transaction conducted through a
2 sales outlet, catalog, the Internet or any other similar
3 electronic means. The term does not include a lease.

4 "Secretary." The Secretary of Environmental Protection of
5 the Commonwealth.

6 "Television manufacturer." A person who:

7 (1) manufactures covered television devices to be sold
8 under its own brand as identified by its own brand label or
9 BEING sold under a brand it ~~licenses~~, IS LICENSED TO USE; ←

10 (2) sells covered television devices manufactured by
11 others under its own brand as identified by its own brand
12 label; or

13 (3) assumes the duties imposed on a television
14 manufacturer under this act.

15 CHAPTER 3

16 DUTIES OF MANUFACTURERS AND RETAILERS

17 Section 301. Applicability.

18 The collection, transportation and recycling provisions of
19 this act shall apply only to covered devices used by and
20 collected from a consumer in this Commonwealth.

21 Section 302. Sales prohibition.

22 (a) General rule.--No manufacturer and, no later than 12
23 months after the effective date of this section, no retailer may
24 sell or offer for sale in this Commonwealth a new covered device
25 unless the brand is included on the list of registered
26 manufacturers and their brands maintained by the department
27 pursuant to subsection (b).

28 (b) List to be maintained by department.-- No later than six
29 months after the effective date of this section, the department
30 shall maintain a list of each registered manufacturer, the

1 brands of all covered devices reported in each manufacturer's
2 registration and the brands of covered devices for which no
3 manufacturer has registered and post the list on the
4 department's Internet website.

5 (c) Duty of retailers to consult list.--

6 (1) Beginning no later than 12 months after the
7 effective date of this section, a retailer of new covered
8 devices to be offered for sale in or into this Commonwealth
9 shall consult the list prior to selling new covered devices
10 in this Commonwealth.

11 (2) A retailer shall be considered to have complied with
12 paragraph (1) if, on the date that the new covered device was
13 ordered ~~from~~ BY the retailer, the brand was on the list of ←
14 registered manufacturers and is posted on the Internet
15 website identified in subsection (b).

16 Section 303. Labeling requirement.

17 On or after the effective date of this section, no
18 manufacturer or retailer may sell or offer for sale in this
19 Commonwealth a new covered device unless it is labeled with the
20 manufacturer's brand whether owned or licensed.

21 Section 304. Registration.

22 (a) Manufacturers registration.--

23 (1) A manufacturer of new covered devices offered for
24 sale in this Commonwealth shall register with the department
25 by January 30, 2011, or six months after the effective date
26 of this section, whichever is later, and pay a registration
27 fee of \$5,000.

28 (2) After January 30, 2011, or six months after the
29 effective date of this section, whichever is later, if a
30 manufacturer has not previously filed a registration, the

1 manufacturer shall file a registration with the department
2 prior to any offer for sale or delivery in this Commonwealth
3 of the manufacturer's new covered devices and shall pay to
4 the department a registration fee of \$5,000.

5 (3) A registered manufacturer shall submit an annual
6 renewal of its registration to the department and pay to the
7 department a registration fee of \$5,000 by January 1 of each
8 program year. The registration and each annual renewal shall
9 include a list of all brands the manufacturer is using on its
10 covered devices regardless of whether the manufacturer owns
11 or licenses the brand, and shall be effective upon receipt by
12 the department.

13 ~~(b) Reporting by manufacturers.~~ ←

14 ~~(1) In addition to reporting all brands under which its~~
15 ~~covered devices are offered for sale, regardless of whether~~
16 ~~the manufacturer owns or licenses the brand, the~~
17 ~~manufacturer's annual report to the department shall include~~
18 ~~an estimate of the total weight of its covered television~~
19 ~~devices sold to households during the previous year~~
20 ~~calculated by multiplying the weight of its covered~~
21 ~~television devices sold nationally times the quotient of this~~
22 ~~Commonwealth's population divided by the national population.~~
23 ~~The report required under this paragraph shall be submitted~~
24 ~~to the department upon initial registration and then by~~
25 ~~January 30 each year thereafter.~~

26 ~~(2) When a manufacturer or group of manufacturers~~
27 ~~conducts its own collection, transportation and recycling~~
28 ~~program for covered devices, the manufacturer or group of~~
29 ~~manufacturers shall submit a report to the department~~
30 ~~annually by January 30, beginning the year after the program~~

1 ~~is initiated. The report shall consist of the total weight of~~
2 ~~covered devices collected from consumers in this Commonwealth~~
3 ~~by the manufacturer or group of manufacturers during the~~
4 ~~previous program year and documentation verifying collection~~
5 ~~and recycling of such devices.~~

6 ~~(c) Sales data. Any national sales data submitted by a~~
7 ~~television manufacturer to the department to fulfill its~~
8 ~~obligations under this act shall be exempt from disclosure under~~
9 ~~the provisions of the act of February 14, 2008 (P.L.6, No.3),~~
10 ~~known as the Right To Know Law, and shall not be disclosed by~~
11 ~~the department unless otherwise required by law or court order.~~

12 (B) (RESERVED). ←

13 Section 305. Manufacturer plan and reporting.

14 (a) Collection, transportation and recycling plan.--

15 (1) A manufacturer shall establish, conduct and manage a
16 plan to collect, transport and recycle a quantity of covered
17 ~~computer~~ devices equal to the manufacturer's market share. ←
18 The plan shall be submitted to the department for review.

19 (2) A group of manufacturers may submit a joint plan to
20 collect, transport and recycle the manufacturer's market
21 share.

22 (b) Contents of plan.--The plan required under subsection
23 (a) shall include:

24 (1) Methods that will be used to collect the covered
25 devices, including the name and locations of proposed
26 collection sites.

27 (2) The processes that will be used to recycle,
28 including a description of the recycling processes that will
29 be used and the names and locations of recyclers to be
30 directly utilized by the plan.

1 (3) Means that will be utilized to publicize the
2 collection opportunities, including specification of an
3 Internet website address or toll-free telephone number that
4 provides information about the manufacturer's program in
5 sufficient detail to allow consumers to learn how to return
6 their covered devices for recycling.

7 (4) The intention of the manufacturer or each
8 manufacturer to fulfill its obligated share under this act,
9 through operation of its own program, either individually or
10 with other manufacturers as a group.

11 (5) A listing of all collection sites for covered
12 devices.

13 (6) FOR AN INITIAL PLAN SUBMITTED BY A MANUFACTURER OR ←
14 GROUP OF MANUFACTURERS, AN ESTIMATE OF THE WEIGHT OF COVERED
15 DEVICES TO BE COLLECTED DURING THE FIRST PROGRAM YEAR. THE
16 PLAN SHALL ALSO INCLUDE INFORMATION DEMONSTRATING THE PROCESS
17 BY WHICH THE MANUFACTURER OR GROUP OF MANUFACTURERS WILL
18 INCREASE THE COLLECTION OF COVERED DEVICES BY A MINIMUM OF 2%
19 BY WEIGHT PER YEAR BEGINNING WITH THE SECOND FULL PROGRAM
20 YEAR.

21 (C) REPORTING BY MANUFACTURERS.--

22 (1) (I) IN ADDITION TO REPORTING ALL BRANDS UNDER WHICH
23 ITS COVERED DEVICES ARE OFFERED FOR SALE, REGARDLESS OF
24 WHETHER THE MANUFACTURER OWNS OR LICENSES THE BRAND, THE
25 MANUFACTURER'S ANNUAL REPORT TO THE DEPARTMENT SHALL
26 INCLUDE: AN ESTIMATE OF THE TOTAL WEIGHT OF ITS COVERED
27 DEVICES SOLD TO HOUSEHOLDS DURING THE PREVIOUS YEAR
28 CALCULATED BY MULTIPLYING THE WEIGHT OF ITS COVERED
29 DEVICES SOLD NATIONALLY TIMES THE QUOTIENT OF THIS
30 COMMONWEALTH'S POPULATION DIVIDED BY THE NATIONAL

1 POPULATION.

2 (II) THE REPORT REQUIRED UNDER THIS PARAGRAPH SHALL
3 BE SUBMITTED TO THE DEPARTMENT UPON INITIAL REGISTRATION
4 AND THEN BY JANUARY 30 EACH YEAR THEREAFTER.

5 (2) WHEN A MANUFACTURER OR GROUP OF MANUFACTURERS
6 CONDUCTS ITS OWN COLLECTION, TRANSPORTATION AND RECYCLING
7 PROGRAM FOR COVERED DEVICES, THE MANUFACTURER OR GROUP OF
8 MANUFACTURERS SHALL SUBMIT A REPORT TO THE DEPARTMENT
9 ANNUALLY BY JANUARY 30, BEGINNING THE YEAR AFTER THE PROGRAM
10 IS INITIATED. THE REPORT SHALL CONSIST OF THE TOTAL WEIGHT OF
11 COVERED DEVICES COLLECTED FROM CONSUMERS IN THIS COMMONWEALTH
12 BY THE MANUFACTURER OR GROUP OF MANUFACTURERS DURING THE
13 PREVIOUS YEAR AND DOCUMENTATION VERIFYING COLLECTION AND
14 RECYCLING OF THE DEVICES.

15 (D) SALES DATA.--NATIONAL SALES DATA SUBMITTED BY A
16 MANUFACTURER TO THE DEPARTMENT TO FULFILL ITS OBLIGATIONS UNDER
17 THIS ACT SHALL BE EXEMPT FROM DISCLOSURE UNDER THE PROVISIONS OF
18 THE ACT OF FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN AS THE RIGHT-
19 TO-KNOW LAW, AND SHALL NOT BE DISCLOSED BY THE DEPARTMENT UNLESS
20 OTHERWISE REQUIRED BY LAW OR COURT ORDER.

21 ~~(e)~~ (E) Approval of plan.--



22 (1) The department shall review a plan submitted to it
23 under subsection (a) and, within 60 days of receipt of the
24 plan, determine whether the plan complies with the provisions
25 of this act.

26 (2) If the department approves the plan, the department
27 shall notify the manufacturer or group of manufacturers. If
28 the department rejects the plan, in whole or in part, the
29 department shall notify the manufacturer or group of
30 manufacturers and provide the reasons for the plan's

1 rejection. Rejection of a plan shall be based on the plan's
2 failure to provide the information required by subsection
3 (b).

4 (3) Within 30 days after receipt of the department's
5 rejection, the manufacturer or group of manufacturers may
6 revise and resubmit the plan to the department for approval.

7 ~~(d)~~ (F) Effect of failure to comply with ~~approval~~ APPROVED ←
8 plan.--

9 (1) (i) If the total weight in pounds of covered
10 devices collected, transported and recycled during a
11 program year by a manufacturer or group of manufacturers
12 is less than the sum of the obligated shares in weight
13 for that program year of each manufacturer participating
14 in the plan, the manufacturer or group of manufacturers
15 shall submit to the department, by March 15 of the
16 following program year, a payment to cover the cost of
17 collecting, transporting and recycling the unmet portion
18 of the sum of the obligated shares in weight.

19 (ii) The payment shall be equal to the quantity of
20 the unmet portion, in pounds, plus an additional 10% of
21 such quantity, multiplied by the cost per pound for
22 collection, transportation and recycling of covered
23 devices.

24 (iii) All payments collected under subparagraph (ii)
25 shall be deposited into the ELECTRONIC MATERIALS ←
26 Recycling ~~Fund~~ ACCOUNT and shall be used to fund the ←
27 activities under ~~section 501 and other recycling programs~~ ←
28 ~~within this Commonwealth~~ THIS ACT. ←

29 (2) The department shall:

30 (i) Determine the average cost for collection and

1 transportation of covered devices to be used in
2 calculating the penalties under this paragraph.

3 (ii) No more frequently than annually and no less
4 frequently than biennially review these costs and shall
5 publish for public comment any proposed changes to these
6 costs.

7 ~~(e)~~ (G) Multiple ~~computer~~ manufacturers.-- ←

8 (1) Where more than one person may be deemed the
9 ~~computer~~ manufacturer of a brand of a covered ~~computer~~ ←
10 device, any one or more such persons may assume
11 responsibility for and satisfy the obligations of a
12 manufacturer under this act with respect to covered ~~computer~~ ←
13 devices bearing that brand.

14 (2) In the event that no person assumes responsibility
15 for and satisfies the obligations of a ~~computer~~ manufacturer ←
16 under this act with respect to covered devices bearing that
17 brand, for purposes of compliance with these provisions, the
18 responsible party shall be the person who satisfies paragraph
19 (1) of the definition of ~~computer~~ manufacturer. ←

20 ~~(f)~~ (H) Construction.--Nothing in this act shall be ←
21 construed to exempt any person from liability that person would
22 otherwise have under applicable law.

23 Section 306. Retailer responsibility.

24 (a) Public notice.--A retailer shall notify customers about
25 the manner in which to recycle a covered device and of the
26 locations for the collection and return of covered devices. This
27 notification shall occur either by posting the information
28 within the retail location, by providing the department's toll-
29 free telephone number, Internet website or both, or by providing
30 retailer-developed information.

1 (b) Compliance.--A retailer shall comply with sections
2 302(a) and (c) and 303.

3 CHAPTER 5

4 ADMINISTRATION

5 Section 501. Duties of department.

6 The department shall:

7 (1) Encourage the use of existing collection and
8 consolidation infrastructure for handling covered devices to
9 the extent that this infrastructure is accessible on a
10 regular and ongoing basis to at least 85% of the population
11 of this Commonwealth, is cost effective and meets the
12 environmentally sound management requirements of section 506.

13 (2) Update the list maintained pursuant to section
14 302(b) upon receipt by the department of a manufacturer's
15 registration or an annual manufacturer registration renewal.

16 (3) Organize and coordinate public education and
17 outreach. The department shall work with retailers to develop
18 the appropriate public education and outreach materials and
19 to assist retailers as necessary in the conduct of their
20 public education and outreach efforts.

21 (4) Review all plans submitted by a manufacturer or
22 group of manufacturers for the collection, transportation and
23 recycling of covered devices.

24 (5) Oversee the implementation of all approved plans and
25 take the necessary actions to ensure compliance with approved
26 plans.

27 Section 502. Annual report.

28 The department shall prepare and submit annually to the
29 General Assembly and post on its Internet website a report that
30 includes:

1 (1) The total weight of covered ~~computer devices or~~ ←
2 ~~covered television~~ devices collected in this Commonwealth
3 during the previous calendar year.

4 (2) A complete listing of all manufacturers' collection,
5 transportation and recycling programs and collection sites
6 operating in this Commonwealth during the prior calendar
7 year, the parties that operated them and the amount of
8 material by weight collected at each site.

9 (3) An evaluation of the effectiveness of the education
10 and outreach program.

11 (4) An evaluation of the existing collection and
12 processing infrastructure.

13 (5) Recommendations for expanding the program to include
14 additional electronic devices. All recommendations shall be
15 accompanied by an analysis of the positive and negative
16 aspects along with a cost benefit analysis of the
17 recommendations.

18 Section 503. Additional duties.

19 The department shall:

20 (1) Maintain an Internet website and toll-free telephone
21 number complete with up-to-date listings of where consumers
22 may take covered ~~computer devices or covered television~~ ←
23 devices for recycling under this act.

24 (2) No more frequently than annually and no less
25 frequently than biennially, review the amount of the covered
26 ~~computer device and covered television~~ device recycling and ←
27 registration fee. ~~Recommended changes to the covered computer~~ ←
28 ~~device and covered television device recycling program and~~
29 ~~registration fees shall be published in the Pennsylvania~~
30 ~~Bulletin. The department shall provide for a 30 day public~~

~~comment period on the recommended changes. The department shall consider all comments received and revise accordingly any of its original recommendations and changes to the program or fees, which shall be contained in the annual report.~~ THE ENVIRONMENTAL QUALITY BOARD MAY PROMULGATE REGULATIONS TO ADJUST FEES SO THAT THE FEES GENERATE SUFFICIENT REVENUE REASONABLY NECESSARY TO IMPLEMENT THIS ACT.

Section 504. Fees for collection or recycling of covered ~~computer~~ devices.

No manufacturer or retailer may charge a fee or cost to a consumer for the collection, transportation or recycling of a covered device, unless a financial incentive of equal or greater value is provided to the consumer. The financial incentive may be in the form of a coupon or rebate.

Section 505. Environmentally sound management requirements.

(a) General rule.--Covered devices collected through any program in this Commonwealth, whether by a manufacturer, retailer, for-profit or not-for-profit corporation or unit of government, shall be recycled in a manner that is in compliance with all applicable Federal, State and local laws, regulations and ordinances and may not be exported for disposal in a manner that poses a significant risk to the public health or the environment.

(b) Performance requirements.--~~All~~

(1) ALL entities shall, at a minimum, demonstrate to the satisfaction of the department ~~compliance with the Environmental Protection Agency's: Guidelines for Materials Management of the Partnership referred to as Plug In to eCycling or Responsible Recycling (R2) Practices for use in~~

1 ~~Accredited Certification Programs as issued or any subsequent~~
2 ~~revisions or new editions and make this available on the~~
3 ~~Internet website described in subsection (c) in addition to~~
4 ~~any other requirements mandated by Federal or State law.~~ THAT ←
5 THE FACILITY TO BE USED TO RECYCLE COVERED DEVICES HAS
6 ACHIEVED AND MAINTAINED THIRD-PARTY ACCREDITED CERTIFICATION
7 FROM:

8 (I) THE RESPONSIBLE RECYCLING (R2) PRACTICES
9 STANDARD;

10 (II) THE E-STEWARDS STANDARD; OR

11 (III) AN INTERNATIONALLY ACCREDITED THIRD-PARTY
12 ENVIRONMENTAL MANAGEMENT STANDARD FOR THE SAFE AND
13 RESPONSIBLE HANDLING OF COVERED DEVICES.

14 (2) ALL ENTITIES SHALL PROVIDE INFORMATION ABOUT THEIR
15 CERTIFICATION AND ITS STANDING TO THE DEPARTMENT ALONG WITH
16 ANY OTHER REQUIREMENTS REGARDING THIS SUBSECTION THAT MAY BE
17 MANDATED BY FEDERAL OR STATE LAW. THE DEPARTMENT SHALL MAKE
18 THIS INFORMATION AVAILABLE ON ITS INTERNET WEBSITE.

19 (c) Department to maintain Internet website.--The department
20 shall maintain an Internet website that includes a list of
21 entities and organizations that the department has determined
22 have met the performance requirements.

23 Section 506. Disposal ban.

24 (a) General rule.--Two years after the effective date of
25 this section, no person may place in municipal solid waste a
26 covered device or any of ~~the components or subassemblies thereof~~ ←
27 ITS COMPONENTS, excluding any nonhazardous residuals produced ←
28 during recycling in any solid waste disposal facility.

29 (b) Hold harmless.--An owner or operator of a solid waste
30 disposal facility shall not be found in violation of this

1 section if such owner or operator has:

2 (1) made a good faith effort to comply with this
3 section;

4 (2) posted in a conspicuous location at the facility a
5 sign stating that covered ~~electronic devices and covered~~ ←
6 ~~television devices or any components thereof~~ OF THEIR ←
7 COMPONENTS shall not be accepted at such facility; and

8 (3) notified, in writing, all collectors registered to
9 deposit solid waste to such facility that such devices or
10 THEIR components shall not be accepted at the facility. ←

11 (c) Definition.--For purposes of this section, "facility"
12 shall have the same meaning given to it in section 103 of the
13 act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste
14 Management Act. The term does not include a transfer station.
15 Section 507. Enforcement.

16 (a) Judicial action.--

17 (1) The Commonwealth, through the Attorney General and
18 the department, may initiate independent action to enforce
19 any provision of this act, including failure by the
20 manufacturer to submit a plan as required in section 305 or
21 to remit the registration fee pursuant to section 304(a) to
22 the department.

23 (2) Any funds awarded by the court shall be used first
24 to offset enforcement expenses. Money in excess of the
25 enforcement expenses shall be deposited into the Electronic
26 Materials Recycling Account and used to support the
27 activities under this act.

28 (b) Penalties.--

29 (1) Any manufacturer who fails to label its new covered
30 devices with a brand, as required by section 303, who fails

1 to register with the department and pay a registration fee,
2 as required by section 304(a), may be assessed a penalty of
3 up to \$10,000 for the first violation and up to \$25,000 for
4 the second and each subsequent violation in addition to
5 paying for any fees, payments and penalties required by or
6 imposed pursuant to this act.

7 (2) Except as otherwise provided under paragraph (1),
8 any person, including a retailer, who violates any
9 requirement of this act may be assessed a penalty of up to
10 \$1,000 for the first violation and up to \$2,000 for the
11 second and each subsequent violation, in addition to paying
12 for any fees, payments and penalties required by or imposed
13 pursuant to this act.

14 (3) All penalty moneys collected under paragraphs (1)
15 and (2) shall be deposited into the Electronic Materials
16 Recycling Account and used to support the activities under
17 this act.

18 (c) Injunctive relief.--A violation of the sales
19 prohibitions of this act may be enjoined in an action in the
20 name of the Commonwealth, brought by the Attorney General.

21 Section 508. Regulations.

22 The ~~department~~ ENVIRONMENTAL QUALITY BOARD may adopt rules
23 and regulations as shall be necessary for the purpose of
24 administering this act. The regulations shall be promulgated in
25 accordance with the act of June 25, 1982 (P.L.633, No.181),
26 known as the Regulatory Review Act.

27 Section 509. Multistate implementation.

28 The department may participate in the establishment and
29 implementation of a regional, multistate organization or compact
30 to assist in carrying out the requirements of this act.

1 Section 510. Electronic Materials Recycling Account.

2 (a) Establishment.--The Electronic Materials Recycling
3 Account is established as a restricted account in the General
4 Fund. All proceeds resulting from the manufacturer's
5 registration fees, renewal fees, penalties and judicial actions
6 shall be deposited into the account.

7 (b) Uses.--The department may expend the moneys of the
8 Electronic Materials Recycling Account only to carry out the
9 duties imposed on the department under this act.

10 CHAPTER 7

11 MISCELLANEOUS PROVISIONS

12 Section 701. Expiration.

13 (a) Duty of Secretary of Environmental Protection to monitor
14 Federal law.--

15 (1) The secretary shall monitor the enactment of laws by
16 the Congress of the United States to ~~determined~~ DETERMINE ←
17 whether any law has been so enacted that establishes a
18 program directed to the collection and recycling of covered
19 devices.

20 (2) If the secretary determines that such a law is
21 enacted, the secretary shall publish that determination as a
22 notice in the Pennsylvania Bulletin. The notice shall include
23 a statement that the effect of the notice is the immediate
24 expiration of this act as provided under subsection (b).

25 (b) Effect of secretary's determination.--This act shall
26 expire on the date a determination of the secretary under
27 subsection (a) is published in the Pennsylvania Bulletin.

28 Section 702. Effective date.

29 This act shall take effect in 60 days.